

Blazing the Trail to Justice The State bar of Montana Equal Justice Conference

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Hello, and thank you for inviting me to be here with you today. As I look around this room and see equal justice leaders from across the state convened in one room in common pursuit of building a Statewide Equal Justice Community here in Montana and as I think about where you were just one year ago, I find myself thinking of a line from The Wizard of Oz, of little Dorothy Gale's now-legendary refrain, "Toto, I don't think we're in Kansas anymore." Just like Dorothy, everyone in this room--and I dare say within legal services nationally--is immersed in a period of great change and great challenges, but one of even greater opportunity. After decades of struggling in the trenches to represent the low-income and marginalized persons in our great country, you have come together as a community of justice to think about new ways and new approaches to delivering legal services - a cause to which many of you have dedicated your entire lives. Together you have left Kansas behind and you have begun an uncharted, unmapped and ever-changing journey down the yellow brick road to the Emerald City--a city in which justice and unimpeded access to justice is both a privilege and a right.

First Lady Rosalynn Carter once said "a leader takes people where they want to go. [But] a **great** leader takes people where they don't necessarily want to go, but ought to be." And in the case of equal justice, where we ought to be is a lot closer to delivering first-rate legal assistance to 100 percent of the poor clients we are privileged to serve. Where we are, unfortunately, is somewhere else altogether.

I suspect it troubles all of you, as it does me, that we live in a nation that purports to cherish its commitment to the rule of law and to equal justice, yet four out of every five poor people are turned away at the courthouse door because they can't afford the price of admission. Despite all of our best efforts in helping low-income persons receive equal justice, the reality is that we are only helping one in five of those who need us.

I am guessing that you too are concerned that despite the hard work and the advancements of the last thirty years, economic and social inequality remains the **central reality** of our client's lives.

I know that like me the fact that our legal services programs, our law school clinics and our pro bono programs are now serving second and third generation low-income is a brutal reminder that the realization of justice for many Americans remains more an aspiration than a fact.

And I am aware that many of you share with me a deep concern that we have stopped listening to the voices of our clients and that in so doing we run the risk of building equal justice communities that lack relevance to what our clients are experiencing and feeling today.

We can, and must, resolve to do better in the coming years. But if we are to do "better" at the business of equal justice, we are going to need leaders like yourselves willing to tell people what they may not want to hear and lead them in directions they may not want to go.

The changes within the delivery system in your state that have brought us all together today is a testament to your shared desire not only to be great leaders, but also to make the difficult, and often unpopular, decisions that circumstances sometimes dictate. Unfortunately, there is more to do and you will be called upon to expand your leadership in new and perhaps unimaginable ways.

In Washington, we at LSC discuss our work in terms of efforts to create "Equal Justice Communities" in every state and territory. This phrase embodies our vision of federally funded legal services programs working in robust and free-flowing partnerships to provide high-quality legal help to every client who seeks it. This vision sees programs as more than a collection of talented lawyers - although if we're not good attorneys, first, we may as well forget about all the rest. Clearly, good lawyering must never be sacrificed in the name of creating a better delivery system.

But make no mistake, a better delivery system is exactly what we must create. You see, a State Community of Justice *is* more than a collection of talented lawyers. A "Community of Justice" is one in which

- Equal Justice shareholders are in constant communication, working together and talking together on a daily basis to deliver quality legal services to their clients.
- Legal services attorneys and paralegals, pro bono attorneys, social services agencies, judges, law librarians, law schools and clients are united in substantial alliances with one another.

- We make the highest and best use of every federal, state and local dollar because funding is scarce and the need is so great.
- We are not afraid to try new things or take planned and calculated risks
- We establish **meaningful** working partnerships with the courts, the legislature, State Bars, law schools and client communities. And let me stress that term "meaningful". We are not seeking partnerships that merely exist on paper. We are not a closed community but an open fraternity and we invite and welcome everyone who shares our dream to join us in our pursuit of equal justice.
- We instill high expectations--in ourselves, in each other, in our staff and in our clients.
- And, last but certainly not least, we recognize and value diversity and we tailor our services to respond to the specific needs of the diverse clients and client communities with whom we work.

These are ambitious goals and I would be the last person to suggest that attaining them will be easy and conflict-free. But just as Dorothy discovered as she was walking down that yellow brick road that she herself had the power within her to get back to Kansas or ahead to the Emerald City, so do we all today have the power within ourselves to develop equal justice communities that are strong healthy, vibrant and meaningful to our clients.

These are times of rapid demographic and cultural change in America, and as legal services leaders, we are acutely aware that our clients are changing, too. We serve growing numbers of people who twenty years ago constituted "minority groups" although many of these groups-- in 2001--are rapidly achieving majority status. Many of our clients speak languages other than English. Many of them are among the group we often refer to as the working poor-- a permanent underclass of workers working increasing hours with fewer benefits in a growing sector of low-paid service work. And many of them remain in poverty not because poverty has any attraction but because they are victims of discrimination-- housing discrimination, unequal pay for equal work, discrimination in employment, and discrimination in educational opportunities. Indeed, in America today the intersection of race, class and gender with poverty is astonishing. The new economy, while benefiting many Americans, has accentuated racial and gender differences among our clients and their communities. For example, people of color and Caucasian people enter the work force from different points of privilege. Since many of our clients are "people of color" we must accept the fact that until we assist our clients in equalizing those privileges--for example, helping them to take the legal means necessary to

obtain a quality education and equal access to jobs -- we run the risk of seeing their children and their children's children in our waiting rooms. Similarly, women without a college education often find themselves shut out of those higher paying blue collar jobs--firefighting, transportation, construction--that are often the only ticket out of the ranks of the working poor. If we do nothing to help our female clients address and redress the discrimination they face on a daily basis, we doom them and their children to lives of poverty

So what can we do about the fact that although there has been considerable improvement in the lives of many of our clients over the last twenty years, many of them still face impaired opportunities to meaningfully participate in the fruits of our democratic way of life?

- It goes without saying that our most important goal must be to ensure that each state justice community is provided with adequate resources and funding to do its critical work. Funding is the engine that drives services. So we must expand our funding and diversify our funding base.
- Each state justice community must publicly commit themselves to an ongoing program of self-assessment and self-evaluation from the perspective of our clients. We often evaluate each other and ourselves on the basis of our own ideas of what services should be like. Let's start assessing quality and access from our clients' viewpoint.
- Reasonable steps must be taken by each state community of justice to ensure that access to legal services is not denied because of geographical location, perceived unpopularity or "unworthiness", the nature of the legal problems, or more simple-- but equally damaging-- barriers such as inconvenient operating hours, inconvenient locations, or lack of trained staff. We must continually monitor and assess access barriers in order to both understand what keeps clients from getting access to full range legal services and to identify new and emerging barriers.
- Although the use of technology-based solutions can overcome some barriers to access and are demonstrably effective in disseminating basic information, we cannot overlook the fact that if managed badly technology becomes just one more access barrier for low-income persons and their communities. Advocating technological solutions without addressing the major structural problem that face our grantees, our state justice communities, and our clients is shortsighted and foolish. We must commit to making technology an essential part of how we deliver our services but we must also take steps to ensure that our clients have access to and can appropriately use technology to avail themselves of needed services.

- We must establish and monitor goals for improving-- on the part of both our current clients and our potential clients-- an awareness of their legal rights, their legal responsibilities, and where they can get assistance when they need a lawyer; each justice community must assume responsibility for undertaking regular education and publicity campaigns to educate and inform clients about legal services.
- We can establish measurable performance criteria to objectively track how we are doing in improving access and enhancing quality; results should be publicly disclosed; states should be compared against each other.
- We must begin to focus our attention on the particular legal needs of the various client communities who are most oppressed by economic, cultural and social norms.
- We can reestablish partnerships with our clients and their communities recognizing that it is not enough to redress our clients' day-to-day grievances but we must work with them to strengthen their communities.
- And within our own communities of justice, we must work to develop the capabilities to provide legal representation that is sensitive and responsive to the values, cultures and aspirations of the low-income people we assist. We do this by diversifying our leadership. We must hire people who speak the languages that our clients speak and we must send these people out into the client communities we serve to build relationships with those communities that are based on trust and mutual respect. And we must make our programs places wherein all clients feel they are welcome.

Approximately one year ago, soon after the September 11 tragedy, I was in another state participating in a meeting of legal services and equal justice stakeholders much like this one. At that meeting I had one of those life-defining moments that I would like to share with you. At the beginning of the meeting the crowd was led in the **Pledge of Allegiance**. As you all know, the Pledge concludes with the powerful words "with liberty and justice" for all". Those words resonated for me at that particular moment and when I stood up to make my remarks I asked everyone in the room who thought that **justice** was a central reality of their lives to raise their hands. All of the lawyers and most, if not all of the professional staff in that room, raised their hands. But when I asked for a show of hands as to who in the room felt that **injustice** was the central reality of their lives, the clients in the room--almost all of them people of color and many of them women--raised their hands. And that scared me then and it scares me today. We ought not to tolerate within our country the sad reality that we have many people in our midst who feel "shut out" of our justice

system. We are now in a period of time in the United States in which we all appear willing to recommit ourselves to our country and to democracy. In doing so, let us not overlook the unique opportunity we have to make the words in our Pledge of Allegiance meaningful to everyone:

One nation

Under God

With liberty and **JUSTICE** for all.

Thank you for inviting me to share this conference with you. And congratulations on all of your hard and successful work. You make me proud to be an equal justice advocate.